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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,418	06/06/2001	Jack C. Martin JR.	36968/254469 (BS00413)	7752
36192	7590	04/06/2004	EXAMINER	
CANTOR COLBURN LLP			WONG, ERIC K	
55 GRIFFIN ROAD SOUTH				
BLOOMFIELD, CT 06002			ART UNIT	PAPER NUMBER

2874

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/875,418

Applicant(s)

MARTIN ET AL.

Examiner

Eric Wong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7-11 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to the rejection of claim 1 have been fully considered and are persuasive. Amended claim 1 more clearly shows the limitations of the maintenance input as a "backup". Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Fang et al.

### ***Drawings***

2. The drawings filed 6/6/2001 are objected to because they contain handwritten drawings and labels. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5 rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Application Publication Number and further in view of United States Patent Number 6,504,963 to Fang et al.

As to claim 1, Halgren discloses in figures 1 and 2, an apparatus for multiple-channel dense wavelength division multiplexing (DWDM), the apparatus comprising:

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- A housing capable of being mounted in a front panel of a distribution frame in a switching office (10);
- Circuitry contained inside the housing capable of performing multiple-channel passive DWDM by receiving a plurality of inputs and one output, the circuitry further capable of providing a non-intrusive monitoring port (Paragraph 31 and 32);
- A faceplate attached to the housing with a plurality of openings (Paragraph 26); and
- A plurality of connectors, wherein each connector resides in one of the plurality of openings in the faceplate, each connector having two ends, one being connected to an input of the circuitry and another end (Paragraph 18 and 26).

As to claim 2, the circuitry is capable of receiving 13 inputs.

As to claim 3, the input cable is a fiber optic cable (51).

As to claims 4, and 5, the input cable carries a signal of a defined standard wavelength and is capable of carrying an optical signal around 1550nm.

The limitations in the claims after the word “capable” have no patentable weight. The details of those claims are not specifically claimed and have not been considered as a limitation to the claim. However, the rack structure of Halgren et al. is capable of performing the recited claim limitations.

Halgren et al. however fails to explicitly disclose or reasonably suggest an input for maintenance purposes and is associated with a maintenance wavelength different than the defined wavelengths used in the event of a failure of one of the defined wavelengths.

Fang et al. teaches in column 7, lines 28-33 that backup regenerators may have a tunable laser such that the backup regenerators provide an output at any specified wavelength.

It would have been obvious to one having ordinary skill at the time the invention was made to use the backup regenerators of Fang et al. in Halgren et al. since the function of the claimed limitation is taught by Fang et al. By using backup regenerators as taught by Fang et al., a more efficient and stable optical transmission system with minimal downtime can be achieved.

5. Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halgren et al in view of Fang et al. as applied to claim 1 above, and further in view of common practice in the art.

Halgren et al. and Fang et al. discloses a passive DWDM with inputs and outputs as described in rejections of above claims, but fails to explicitly disclose circuitry capable of performing passive dense wavelength division de-multiplexing.

It is well known in the art to use DWDM for multiplexing or demultiplexing depending on the desired application.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use a demultiplexer in an optical system in order to properly route and transmit optical signals.

***Allowable Subject Matter***

6. The following is a statement of reasons for the indication of allowable subject matter: The prior art made of record fails to explicitly disclose a method for providing spare parts in a central office equipped with a plurality of laser transmitters of different frequencies with a spare

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laser transmitter of a single frequency. Therefore, claim 21 is allowed as indicated in the previous office action.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Wong whose telephone number is 571-272-2363. The examiner can normally be reached on Monday through Friday, 830AM - 430PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on 571-272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EW

  
HEMANG SANGHAVI  
PRIMARY EXAMINER